

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

THOMAS M. TOOKER AND MARY H. TOOKER

PLAINTIFFS

V.

CIVIL ACTION NO. 1:07CV798-LTS-RHW

STATE FARM FIRE AND CASUALTY COMPANY
AND JOHN DOES 1-10

DEFENDANTS

ORDER

Plaintiffs have filed a [62] motion requesting that only one of them be required to personally appear at the mediation to be held in this case today, August 21, 2008. This Court's [25] Order for Mediation emphasizes that each party shall be in attendance.

The primary ground offered by Plaintiffs for this request is that the mediation will be personally attended by the plaintiff Mary H. Tooker and that plaintiff Thomas M. Tooker, who was scheduled to have back surgery on August 11 but did not due to complications and the need for further medical tests, is physically unable to attend but will be available by phone.

Based on these circumstances, the Court is of the opinion that the request to excuse Mr. Tooker's personal appearance is reasonable. While he shall be allowed to participate by phone, it should be understood that Mrs. Tooker will have all authority to speak on behalf of her husband. This relief is also subject to the conditions that Mrs. Tooker will serve as her husband's duly authorized representative at the mediation in the event a settlement is reached, and that any final decision made shall be binding on Mr. Tooker.

Accordingly, **IT IS ORDERED:**

Plaintiffs' [62] Motion to Waive the Personal Appearance of Thomas M. Tooker and allow him to participate via telephone at the scheduled mediation in this cause of action is **GRANTED**, subject to the above comments.

SO ORDERED this the 21st day of August, 2008.

s/ L. T. Senter, Jr.
L. T. SENTER, JR.
SENIOR JUDGE